

## **REMARKS/ARGUMENTS**

Applicants respectfully request reconsideration of this application and reconsideration of the Office Action dated April 30, 2008. Upon entry of this Amendment, claims 1-30, 32, and 34-48 will be pending in this application. Claims 1, 12, 24, 30, 32, 34, and 41 have been amended.

Applicants respectfully request a 1-month extension of time to permit entry of this Amendment. The Commissioner is authorized to debit our Deposit Account No. 19-0733 for the fees associated with the 1-month extension. If fees are required that are not otherwise accounted for in the documents submitted with this Amendment, such as fees under 37 C.F.R. §§ 1.16 or 1.17, or if an extension of time is necessary that is not accounted for in the papers filed with this Amendment, the Commissioner is authorized to debit our Deposit Account No. 19-0733 for any necessary fees to maintain the pending status of this application.

### ***I. The Office Rejected Claims 1-4, 6, 7, 12-15, 17-21, 41-43, and 45 Under 35 U.S.C. § 102(b) based on Buonassissi, U.S. Patent No. 4,601,067***

The Office rejected claims 1-4, 6, 7, 12-15, 17-21, 41-43, and 45 under 35 U.S.C. § 102(b) as being anticipated by Buonassissi, U.S. Patent No. 4,601,067. *See* the April 30, 2008, Office Action at pages 2-3. Applicants' independent claims 1, 12, and 41, as amended, contain elements that are not taught by Buonassissi. For example, Buonassissi does not teach that a first cavity may extend around a first side of the torso region and a second cavity may extend around a second side of the torso region, as recited in Applicant's independent claims 1 and 12. Buonassissi also does not teach that a thermal insert may extend around a first side of the torso region, as recited in Applicants' independent claim 41.

Rather, Buonassissi teaches a vest for regulating the temperature of a wearer's torso having a plurality of cavities positioned in the chest area and a back area with an adjustable fastener for selectively spacing apart the edge of the chest area (24) and the edge of the back area (30). *See* Buonassissi, at Figs. 1-5 and Col. 1, Ln. 48 – Col. 2, Ln. 37. One embodiment of the Buonassissi vest includes spacing the edge of the chest area (24) within "close proximity" of the edge of the back area (30). *See*, the April 30, 2008, Office Action at pages 5-6. Applicants' independent claims 1 and 12 recite, "a first cavity that extends around a first side of the torso

region and a second cavity that extends around a second side of the torso region,” and Applicants’ independent claim 41 recites, “a thermal insert may extend around a first side of the torso region.” Buonassissi does not teach a cavity or thermal insert that may extend around the side area of the torso region, as recited in the claims and thus does not anticipate Applicants’ independent claims 1, 12, and 41. Applicants’ claims 2-4, 6, 7, 13-15, 17-21, 42, 43, and 45 depend from Applicants’ independent claims 1, 12, and 41, respectively, and are thus not anticipated by Buonassissi for at least the same reasons. Applicants respectfully request that the Office withdraw the rejection of these claims and solicit allowance of the same.

***II. The Office Rejected Claims 5, 16, 30, 31, and 44 Under 35 U.S.C. § 103 Based Upon Buonassissi in View of Steele, et al., U.S. Patent No. 5,146,625***

The Office rejected claims 5, 16, 30, 31, and 44 under 35 U.S.C. § 103 as being unpatentable over Buonassissi in view of Steele, et al., U.S. Patent No. 5,146,625 (hereinafter “Steele”). *See* the April 30, 2008, Office Action at pages 3-4. Applicants’ claims 5, 16, 30, 31, and 44 contain elements that are not taught or suggested by Buonassissi, Steele, or the combination thereof. As discussed above, Buonassissi does not teach or suggest a first cavity that extends around a first side of the torso region and a second cavity that extends around a second side of the torso region, as recited in Applicants’ independent claims 1 and 12 or a thermal insert that may extend around a first side of the torso region, as recited in Applicants’ independent claim 41. Further, Buonassissi does not disclose, “at least one cavity that is positioned around each of the side areas of the torso,” as recited in Applicants’ independent claim 30. Steele does not cure these deficiencies. The Office relies upon Steele to teach or suggest a thermal insert having multiple chambers. *See id.* at page 4. Steele does not teach or suggest that a cavity or thermal insert may extend around at least one side area. Thus, Buonassissi in view of Steele do not teach or suggest all of the elements of Applicants’ claims 5, 16, 30, 31, and 44 and do not render these claims unpatentable for at least these reasons. Applicants respectfully request that the Office withdraw the rejection of these claims and solicit allowance of the same.

***III. The Office Rejection Claims 8-11, 22-25, 27-29, 34-40, and 46-48 Under 35 U.S.C. § 103 Based on Buonassissi in View of the Federal Trade Commission Rules***

The Office rejected claims 8-11, 22-25, 27-29, 34-40, and 46-48 under 35 U.S.C. § 103 as being unpatentable over Buonassissi in View of the Federal Trade Commission Rules. As explained above, Buonaasissi does not teach or suggest each element of Applicants' independent claims 1, 12, 24, 30, 34, and 41. The Federal Trade Commission Rules do not cure this deficiency. The Office relies upon the Federal Trade Commission's Rules to teach or suggest "pictorial instructions that are permanently secured to the interior of the garment." *See id.* at pages 4-5. Neither Buonassissi or the Federal Trade Commission Rules teach or suggest a cavity extending around a side area, as recited in Applicants' independent claims. Applicants' claims 8-11, 22, 23, 25, 27-29, 35-40, and 46-48 depend from Applicants' independent claims 1, 12, 24, 30, 34, and 41, respectively, and thus contain elements that are not taught or suggested by Buonassissi in view of the Federal Trade Commission Rules. Applicants respectfully request that the Office withdraw the rejection of claims 8-11, 22-25, 27-29, 34-40, and 46-48 and solicit allowance of the same.

***IV. The Office Rejected Claims 16, 26, and 44 Under 35 U.S.C. § 103 Based on Buonassissi in View of the Federal Trade Commission Rules and Further in View of Steele***

The Office rejected claims 16, 26, and 44 under 35 U.S.C. § 103 as being unpatentable over Buonassissi in view of the Federal Trade Commission Rules and further in view of Steele. As explained above, none of these references teach or suggest a cavity or a thermal insert that extends around the side area of the article of apparel, as recited in Applicants' independent claims 12, 24, and 41, as amended, upon which Applicants' claims 16, 26, and 44 depend. Applicants respectfully request that the Office withdraw the rejection of claims 16, 26, and 44 and solicit allowance of the same.

**V. Conclusion**

Nothing in this Amendment should be construed as an admission that Applicants agree with or acquiesce on the various grounds of rejection that were raised by the Office in the April 30, 2008, Office Action. Rather, by this Amendment, Applicants have presented various claim amendments in an effort to expedite prosecution and to facilitate the allowance of this application. The claim changes made in this Amendment are presented without prejudice or disclaimer, and Applicants reserve all rights with respect to the originally and/or previously claimed subject matter, including the right to pursue claims of the same or similar scope in the future (*e.g.*, in a continuing application).

If the Examiner believes that a telephone conference or a personal interview will be useful to advance the prosecution of this application and/or to place the application in condition for allowance, she is invited to contact the undersigned attorney.

All rejections having been fully addressed, Applicants respectfully submit that this application is in condition for allowance and respectfully solicit notification of the same.

Respectfully submitted,

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